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10/718,784	11/21/2003	Anca Zamfir	50325-0844	1563
29989 7590 07/14/2008 HICKMAN PALERMO TRUONG & BECKER, LLP 2055 GATEWAY PLACE SUITE 550 SAN JOSE, CA 95110				
			EXAMINER	
			SKRIPNIKOV, ALEX	
			ART UNIT	PAPER NUMBER
			2616	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,784

Applicant(s)

ZAMFIR ET AL.

Examiner

Alex Skripnikov

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08/03/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 05/10/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Preliminary Amendment

1. The preliminary amendment to the claims filed on 08/03/2004, page 18, indicates that *"Claims 1-25 were originally presented for examination; by this amendment, Claims 26-81 have been added; thus, Claims 1-81 are now pending in this case."*
2. Claims 53-81 have not been submitted in the preliminary amendment.
3. **Examiner will address claims 1-52 in this Office Action** as submitted on pages 2-17 in the preliminary amendment.

Oath/Declaration

4. A preliminary amendment filed after the filing date of the application is not part of the original disclosure of the application. See MPEP §706.03(o). Applicant is required to provide a supplemental oath or declaration under 37 CFR 1.67 referring to the preliminary amendment. See MPEP §608.04(b).

Drawings

5. **Figure 1** should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as

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not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The preliminary amendment filed on 08/03/2004 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. It is applicant's obligation to review the preliminary amendment to ensure that it does not contain subject matter not otherwise included in the specification or drawings of the application as filed. See MPEP §608.04(b).

The added material which is not supported by the original disclosure is as follows:

As to claims 26, 38, 43 and 48:

Limitations "*the first recovery data includes data identifying a target RSVP node*", "*the second recovery data identifies an original RSVP route*" and "*updating the first path data to correspond to the original RSVP route*" were not described in the Specification as filed and introduces new matter into the disclosure.

As to claim 37:

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Limitations "*an Explicit Route Object containing data identifying a target RSVP node*", "*identifying forwarding data associated with the first RSVP PATH message*", "*based on the forwarding data, identifying a neighbor RSVP node*" and "*performing a partial expansion of the Explicit Route Object of the first RSVP PATH message to include the identified neighbor RSVP node and the identified target RSVP node*" were not described in the Specification as filed and introduces new matter into the disclosure.

As to claims 28, 40, 45 and 50:

Limitation "*causing the neighbor RSVP node to determine if the second downstream message is associated with forwarding data*" was not described in the Specification as filed and introduces new matter into the disclosure.

As to claim 34:

Limitation "*storing the results of the partial expansion in a Recovery Explicit Route Object*" was not described in the Specification as filed and introduces new matter into the disclosure.

As to claim 35:

Limitation "*the loose hop identifies a target RSVP node*" was not described in the Specification as filed and introduces new matter into the disclosure.

7. Applicant is required to review the preliminary amendment to ensure that it does not contain subject matter not otherwise included in the specification or drawings of the application as filed and cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims **8-13** and **38-42** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer-readable medium, as recited in claims 8-13 and 38-42, defined the Specification on page 18-19, paragraph [0076] as form of acoustic or light waves, such as those generated during radio wave and infrared data communications, is non-statutory subject matter. Acoustic or light waves are not a process because it is not a series of steps. Acoustic or light waves are not a machine because it "has no physical structure" and "does not itself perform any useful, concrete and tangible result". Acoustic or light waves are not matter, but a form of energy, and therefore is not a composition of matter. Acoustic or light waves are not a manufacture because "manufacture" requires some form of matter, which acoustic or light waves do not have. Therefore, acoustic or light waves are non-statutory.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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11. Claims **26-52** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As to claims 26, 38, 43 and 48:

Limitations "*the first recovery data includes data identifying a target RSVP node*", "*the second recovery data identifies an original RSVP route*" and "*updating the first path data to correspond to the original RSVP route*" were not described in the Specification as filed and introduces new matter into the disclosure.

As to claim 37:

Limitations "*an Explicit Route Object containing data identifying a target RSVP node*", "*identifying forwarding data associated with the first RSVP PATH message*", "*based on the forwarding data, identifying a neighbor RSVP node*" and "*performing a partial expansion of the Explicit Route Object of the first RSVP PATH message to include the identified neighbor RSVP node and the identified target RSVP node*" were not described in the Specification as filed and introduces new matter into the disclosure.

As to claims 28, 40, 45 and 50:

Limitation "*causing the neighbor RSVP node to determine if the second downstream message is associated with forwarding data*" was not described in the Specification as filed and introduces new matter into the disclosure.

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As to claim 34:

Limitation "*storing the results of the partial expansion in a Recovery Explicit Route Object*" was not described in the Specification as filed and introduces new matter into the disclosure.

As to claim 35:

Limitation "*the loose hop identifies a target RSVP node*" was not described in the Specification as filed and introduces new matter into the disclosure.

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claim **4, 11, 17 and 23** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is insufficient antecedent basis in the claims for limitations: "*step of **creating and storing second information***" of claims 4, 11 and 23 and "*means for **creating and storing second information***" of claim 17. There is no step of creating or means for creating, recited in the claims. The limitation "**second information**" is indefinite because of lack of "first information" recited in the claims. There is insufficient antecedent basis in the claims for limitation "**second information**".

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15. Claims **1-3, 8-10, 14-16 and 20-22** are rejected under 35 U.S.C. 102(e) as being anticipated by **Kompella et al. US 7,359,377**.

As to claims 1, 8, 14 and 20:

Kompella et al. discloses an apparatus for restarting resource reservation protocol (RSVP) processes in multiple network devices, comprising:
a network interface that is coupled to the data network for receiving one or more packet flows therefrom (Kompella et al.; column 26, lines 20-23); a processor;
one or more stored sequences of instructions which, when executed by the processor (Kompella et al.; column 26, lines 24-47), and a method of restarting resource reservation protocol (RSVP) processes in multiple network devices, the method comprising the computer-implemented steps of: entering a recovery mode (restart initiated 835; Kompella et al.; Fig. 8);
sending a Hello message to a first neighbor RSVP node (830 hello message; Kompella et al.; Fig. 8), wherein the Hello message comprises a non-zero Recovery Time value (Kompella et al.; column 23, lines 6-10);
completing the recovery mode (restart completed 848; Kompella et al. Fig. 8);

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sending a Hello message to the first neighbor RSVP node, wherein the Hello message comprises a Recovery Time value of zero (Kompella et al.; column 23, line 11).

As to claims 2, 9, 15 and 21:

Kompella et al. discloses receiving, from a second neighbor RSVP node, a Hello message having a non-zero Recovery Time value (860; Kompella et al.; Fig. 8; column 23, lines 6-10, where method of Kompella et al. is applicable to more than two RSVP nodes within the network Fig. 3);

storing information specifying that the second neighbor RSVP node is in a recovery mode (850; Kompella et al.; Fig. 8, where step of storing is corresponding to the inherent functionality of a node (node cannot process information without storing)).

As to claims 3, 10, 16 and 22:

Kompella et al. discloses receiving, from the second neighbor RSVP node, a Hello message having a zero Recovery Time value (Kompella et al.; Fig. 8; column 23, line 11, where method of Kompella et al. is applicable to more than two RSVP nodes within the network Fig. 3);

storing information specifying that the second neighbor RSVP node is in a normal mode (a neighbor is up; Kompella et al.; column 25, line 65-67; where step of storing is corresponding to the inherent functionality of a node (node cannot process information without storing)).

16. Claims **26, 38, 43 and 48** are rejected under 35 U.S.C. 102(e) as being anticipated by **Seddigh et al. US 7,317,731**.

Seddigh et al. discloses an apparatus for restarting resource reservation protocol (RSVP) processes in multiple network devices, comprising: a network interface that is coupled to the data network for receiving one or more packet flows therefrom (Seddigh et al.; Abstract); a processor; one or more stored sequences of instructions and a method of restarting resource reservation protocol (RSVP) processes in multiple network devices, the method comprising the computer-implemented steps of: receiving a first downstream message (412; Seddigh et al. Fig. 4; column 6, line 52) containing first path data (suggested label; Seddigh et al.; column 6, line 53) ; based on said first path data, generating first recovery data (recreate; column 6, line 55), wherein the first recovery data includes data identifying a neighbor RSVP node (Node C; Seddigh et al.; Fig. 4) and a target RSVP node (Node A; Seddigh et al.; Fig. 4; column 6, lines 58-65, where Node C matches the reverse traffic outLabel entry of received Suggested Label from node A column 6, lines 62-63); sending a second downstream message (414; Seddigh et al.; Fig. 4; Column 7, lines 1-2) containing the first recovery data to the neighbor RSVP node (Node C; Seddigh et al.; Fig. 4); receiving a first upstream message from the neighbor RSVP node (418; Seddigh et al.; Fig. 4) containing second recovery data (label object; Seddigh et al.; column 7, line 9), wherein the second recovery data identifies an original RSVP route (outgoing label for the forward direction traffic; Seddigh et al.; column 7,

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line 11); and

based on the second recovery data, updating the first path data to correspond to the original RSVP route (Seddigh et al.; column 7, lines 15-25).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims **4, 6, 11, 13, 17, 19, 23 and 25** rejected under 35 U.S.C. 103(a) as being unpatentable over **Kompella et al. US 7,359,377** in view of **Seddigh et al. US 7,317,731**.

As to claims 4, 11, 17 and 23:

Kompella et al. discloses the claimed invention as to claims 2, 9, 15 and 21 above.

Kompella et al. fails to teach step of creating and storing second information further comprises the steps of:
receiving an RSVP PATH message that contains a Recovery Label;
forwarding the PATH message to a downstream node with the Recovery Label only in response to determining that the PATH message is being sent to a node that is in recovery mode.

However, Seddigh et al. discloses receiving (received by node 620; Seddigh et al. Fig. 6) an RSVP PATH message (612; Seddigh et al. Fig. 6) that contains a Recovery Label (Seddigh et al.; column 18, lines 40-45); forwarding (forwarded by node 610; Seddigh et al.; Fig. 6) the PATH message (612; Seddigh et al. Fig. 6) to a downstream node with the Recovery Label only in response to determining that the PATH message is being sent to a node that is in recovery mode (Seddigh et al.; column 18, lines 36-45).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicants' invention was made to include RSVP PATH message processing in the RSVP system taught by Kompella et al. as evidenced by Seddigh et al.

As to claims 6, 13, 19 and 25:

Kompella et al. and Seddigh et al. disclose the claimed invention as to claim 4, 11, 17 and 23 above.

Furthermore, Kompella et al. and Seddigh et al. disclose the determining step is performed based on whether a Recovery Time value in a previously received Hello message is non-zero (Kompella et al.; column 25, lines 13-31; Seddigh et al. column 18, lines 35-40).

Allowable Subject Matter

19. Claim 7 is allowed.

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20. Claims **5, 18 and 24** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Skripnikov whose telephone number is 571-270-1958. The examiner can normally be reached on Monday - Friday 9:00 AM to 5 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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July 10, 2008

/Alex Skripnikov/
Examiner, Art Unit 2616

/Huy D. Vu/
Supervisory Patent Examiner, Art Unit 2616